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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/764,784

01/26/2004

Michael P. Connelly

1842.012US1

9760

70648

7590

06/12/2008

SCHWEGMAN, LUNDBERG & WOESSNER/WMS GAMING

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EXAMINER

KIM, ANDREW

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

06/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/764,784	<b>Applicant(s)</b> CONNELLY, MICHAEL P.	
	<b>Examiner</b> ANDREW KIM	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/25/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to the amendment filed on 3/25/08 in which:

- Claim(s) 1.8.15-18 have/has been amended.
- Response to claims rejection have been filed.
- Claim(s) 1-18 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi (US 5,695,188) in view of Landis (US 2004/0235545 A1).

Art Unit: 3714

Claims 1, 8, 15, 16, 17, and 18. Ishibashi discloses a computerized gaming system, comprising: a gaming module, comprising a processor and gaming code which is operable when executed on the processor to conduct a wagering game on which monetary value can be wagered; and an audio module (col. 4:43-67), the audio module operable to play audio cues to direct the visual attention of a player of the gaming system, the audio cues comprising a directional, moveable audio representation of the physical location of a game element presented on a video screen (col. 10:20-24) by variation in at least one of pitch, instrument, rhythm, volume, echo, phase, and panning (Abstract).

Ishibashi may not explicitly teach a directional, moveable audio, instead Ishibashi teaches certain sounds when certain sounds are in a certain region of the display. However, in an analogous audio reference, Landis teaches directional, moveable audio such that the audio cues appear to a game player to come from the physical location on the display of the displayed game element to play a game in which may involve visual cues which are synchronized with the different audio cues and which aid the player when the visual cues are displayed on a display device (Abstract). One of ordinary skill in the art would have seen the benefit of modifying Ishibashi with directional audio to further entice players to play the game because when the more senses that are stimulated, the more immersive the game may be which can increase player appeal. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ishibashi with directional audio to stimulate the player more and increase player appeal.

Claims 2, 9. The computerized gaming system of claim 1, wherein localized sounds comprise sounds representing only a portion of the video screen of the gaming device (Abstract). The sounds represent the payline.

Claims 3, 10. Ishibashi substantially discloses the invention as claimed but fails to explicitly teach wherein pitch varies with vertical position of directed visual attention on the video screen. Instead, Ishibashi teaches generating sounds when each of the plurality of symbol columns is moved and stopped. However, it is well known to change the pitch of a sound with respect to its vertical position. For example in reading music, to indicate a note of a high pitch one would look at the notes at the top of the scale. Another example is the sound when a pogo stick hits the ground. Boing. One would obviously associate the high pitched sound for when the pogo stick is higher in the air. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the instant invention to incorporate wherein the pitch varies with vertical position to notify the user where to direct his attention.

Claims 4, 11. The computerized gaming system of claim 1, wherein the audio cues indicate the payline in a video slot gaming machine (Abstract).

Claims 5, 12. The computerized gaming system of claim 1, wherein at least one of instrument or phase changes to represent different reels where the gaming system is a

multi-reel video slot machine (fig. 7, Abstract).

Claims 6, 13. The computerized gaming system of claim 1, wherein the variation in at least one of pitch, instrument, rhythm, volume, echo, phase, delay, and localized sounds is further accompanied by panning to represent horizontal position on the video screen (col. 3:40-67). Panning has been interpreted as vertical panning.

Claims 7, 14. The computerized gaming system of claim 1, wherein multiple audio cues are presented at the same time (Abstract). When the reels are rotating at the same time, the audio cues will be sounded at the same time.

### ***Response to Arguments***

Applicant's arguments filed 3/25/08 have been fully considered but they are not persuasive.

The term, "appear" is a very broad term and has been interpreted such that when the two front speakers of Landis were right next to the TV, sound from the right front speaker would "appear" to come from a physical location on the TV and sound from the left front speaker would also "appear" to come from a physical location on the TV.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hirz, Philip "Directional Audio".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AK 6/14/2008

Examiner, Art Unit 3714

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3714